

HOUSE BILL 373

Unofficial Copy
R3

2004 Regular Session
(41r0838)

ENROLLED BILL
-- Judiciary/Judicial Proceedings --

Introduced by **Delegate Menes (Special Committee on Drug and Alcohol Abuse) and Delegates Anderson and Barkley**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Vehicle Laws - Driving While Impaired by Controlled Dangerous Substance**
3 **- Penalties**

4 ~~FOR the purpose of requiring the Motor Vehicle Administration to suspend for a~~
5 ~~certain period of time the driver's license of a person who is convicted of driving~~
6 ~~while impaired by a controlled dangerous substance more than once within a~~
7 ~~certain period of time; providing certain procedures for the suspension of the~~
8 ~~driver's license of a certain person; providing that a certain suspension be~~
9 ~~concurrent with certain other suspensions; altering certain penalties for a~~
10 ~~conviction for a violation of driving while impaired by a controlled dangerous~~
11 ~~substance; requiring a person convicted of driving while impaired by a controlled~~
12 ~~dangerous substance to undergo a certain assessment and participate in a~~
13 ~~certain program under certain circumstances; making stylistic changes; and~~
14 ~~generally relating to the penalties for a conviction of driving while impaired by~~
15 ~~a controlled dangerous substance.~~

16 ~~BY adding to~~

1 ~~Article - Transportation~~
2 ~~Section 16-205(e-1)~~
3 ~~Annotated Code of Maryland~~
4 ~~(2002 Replacement Volume and 2003 Supplement)~~

5 BY repealing and reenacting, with amendments,
6 Article - Transportation
7 Section 27-101(c), (f), (j), (k), and (q)
8 Annotated Code of Maryland
9 (2002 Replacement Volume and 2003 Supplement)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
11 MARYLAND, That the Laws of Maryland read as follows:

12 **Article - Transportation**

13 ~~16-205.~~

14 ~~(E-1) (1) IN THIS SUBSECTION, "MOTOR VEHICLE" DOES NOT INCLUDE A~~
15 ~~COMMERCIAL MOTOR VEHICLE.~~

16 ~~(2) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, THE~~
17 ~~ADMINISTRATION SHALL SUSPEND FOR 1 YEAR THE LICENSE OF A PERSON WHO IS~~
18 ~~CONVICTED OF A VIOLATION OF § 21-902(D) OF THIS ARTICLE MORE THAN ONCE~~
19 ~~WITHIN A 5-YEAR PERIOD.~~

20 ~~(3) ON RECEIVING A RECORD OF A CONVICTION OF A PERSON FOR A~~
21 ~~VIOLATION OF § 21-902(D) OF THIS ARTICLE MORE THAN ONCE WITHIN A 5-YEAR~~
22 ~~PERIOD, THE ADMINISTRATION SHALL ISSUE TO THE PERSON A NOTICE OF~~
23 ~~SUSPENSION OF THE PERSON'S LICENSE THAT:~~

24 ~~(I) STATES THAT THE PERSON'S LICENSE SHALL BE SUSPENDED~~
25 ~~FOR 1 YEAR; AND~~

26 ~~(II) ADVISES THE PERSON OF THE RIGHT TO REQUEST A HEARING~~
27 ~~UNDER THIS PARAGRAPH.~~

28 ~~(4) AFTER NOTICE UNDER PARAGRAPH (3) OF THIS SUBSECTION, THE~~
29 ~~ADMINISTRATION SHALL SUSPEND A PERSON'S LICENSE UNDER THIS SUBSECTION~~
30 ~~IF:~~

31 ~~(I) THE PERSON DOES NOT REQUEST A HEARING;~~

32 ~~(II) AFTER A HEARING, THE ADMINISTRATION FINDS THAT THE~~
33 ~~PERSON WAS CONVICTED OF MORE THAN ONE VIOLATION OF § 21-902(D) OF THIS~~
34 ~~ARTICLE WITHIN A 5-YEAR PERIOD; OR~~

35 ~~(III) THE PERSON FAILS TO APPEAR FOR A HEARING REQUESTED BY~~
36 ~~THE PERSON.~~

1 (5) ~~EACH NOTICE AND HEARING UNDER THIS SUBSECTION SHALL MEET~~
2 ~~THE REQUIREMENTS OF TITLE 12, SUBTITLE 2 OF THIS ARTICLE.~~

3 (6) ~~THIS SUBSECTION DOES NOT LIMIT ANY PROVISION OF THIS~~
4 ~~ARTICLE THAT ALLOWS OR REQUIRES THE ADMINISTRATION TO REVOKE OR~~
5 ~~SUSPEND A LICENSE OF A PERSON.~~

6 (7) ~~A SUSPENSION IMPOSED UNDER THIS SUBSECTION SHALL BE~~
7 ~~CONCURRENT WITH ANY OTHER SUSPENSION OR REVOCATION IMPOSED BY THE~~
8 ~~ADMINISTRATION THAT ARISES OUT OF THE CIRCUMSTANCES OF THE CONVICTION~~
9 ~~FOR A VIOLATION OF § 21-902(D) OF THIS ARTICLE DESCRIBED IN THIS SUBSECTION.~~
10 27-101.

11 (c) Any person who is convicted of a violation of any of the provisions of the
12 following sections of this article is subject to a fine of not more than \$500 or
13 imprisonment for not more than 2 months or both:

14 (1) § 12-301(c), (d), (e), or (f) ("Special identification cards: Fraud and
15 misrepresentation prohibited");

16 (2) § 14-102 ("Taking or driving vehicle without consent of owner");

17 (3) § 14-104 ("Damaging or tampering with vehicle");

18 (4) § 14-107 ("Removed, falsified, or unauthorized identification number
19 or registration card or plate");

20 (5) § 14-110 ("Altered or forged documents and plates");

21 (6) § 15-312 ("Dealers: Prohibited acts - Vehicle sales transactions");

22 (7) § 15-313 ("Dealers: Prohibited acts - Advertising practices");

23 (8) § 15-314 ("Dealers: Prohibited acts - Violation of licensing laws");

24 (9) § 15-411 ("Vehicle salesmen: Prohibited acts");

25 (10) § 15-502(c) ("Storage of certain vehicles by unlicensed persons
26 prohibited");

27 (11) § 16-113(j) ("Violation of alcohol restriction ordered by a court");

28 (12) § 16-301 ("Unlawful application for or use of license");

29 (13) § 16-303(h) ("Licenses suspended under certain provisions of Code");

30 (14) § 16-303(i) ("Licenses suspended under certain provisions of the
31 traffic laws or regulations of another state");

32 (15) § 18-106 ("Unauthorized use of rented motor vehicle");

1 (16) § 20-103 ("Driver to remain at scene - Accidents resulting only in
2 damage to attended vehicle or property");

3 (17) § 20-104 ("Duty to give information and render aid");

4 (18) § 20-105 ("Duty on striking unattended vehicle or other property");

5 (19) § 20-108 ("False reports prohibited");

6 (20) § 21-206 ("Interference with traffic control devices or railroad signs
7 and signals");

8 (21) As to a pedestrian in a marked crosswalk, § 21-502(a) ("Pedestrians'
9 right-of-way in crosswalks: In general");

10 (22) As to another vehicle stopped at a marked crosswalk, § 21-502(c)
11 ("Passing of vehicle stopped for pedestrian prohibited");

12 (23) Except as provided in subsections (f) and (q) of this section, §
13 21-902(b) ("Driving while impaired by alcohol");

14 (24) Except as provided in subsections (f) and (q) of this section, §
15 21-902(c) ("Driving while impaired by drugs or drugs and alcohol");

16 (25) [Except as provided in subsections (f) and (q) of this section, §
17 21-902(d) ("Driving while impaired by controlled dangerous substance");

18 (26)] § 21-902.1 ("Driving within 12 hours after arrest"); or

19 [(27)] (26) § 27-107(d), (e), (f), or (g) ("Prohibited acts - Ignition interlock
20 systems").

21 (f) (1) A person is subject to a fine not exceeding \$500 or imprisonment not
22 exceeding 1 year or both, if the person is convicted of:

23 (i) A violation of § 14-103 of this article ("Possession of motor
24 vehicle master key"); or

25 (ii) A second or subsequent violation of:

26 1. § 16-101 of this article ("Drivers must be licensed"); or

27 2. Except as provided in subsection (q) of this section:

28 A. § 21-902(b) of this article ("Driving while impaired by
29 alcohol"); OR

30 B. § 21-902(c) of this article ("Driving while impaired by
31 drugs or drugs and alcohol"); or

1 C. § 21-902(d) of this article ("Driving while impaired by a
2 controlled dangerous substance").

3 (2) Except as provided in subsection (q) of this section, for the purpose of
4 second or subsequent offender penalties for a violation of § 21-902(b) of this article
5 provided under paragraph (1) of this subsection, a prior conviction of [§ 21-902(a), §
6 21-902(c), or § 21-902(d)] § 21-902(A), (C), OR (D) of this article shall be considered a
7 conviction of § 21-902(b) of this article.

8 (3) Except as provided in subsection (q) of this section, for the purpose of
9 second or subsequent offender penalties for a violation of § 21-902(c) of this article
10 provided under paragraph (1) of this subsection, a prior conviction of [§ 21-902(a), §
11 21-902(b), or § 21-902(d)] § 21-902(A), ~~(C)~~, (B), OR (D) of this article shall be considered
12 a conviction of § 21-902(c) of this article.

13 [(4) Except as provided in subsection (q) of this section, for the purpose of
14 second or subsequent offender penalties for a violation of § 21-902(d) of this article
15 provided under paragraph (1) of this subsection, a prior conviction of § 21-902(a), §
16 21-902(b), or § 21-902(c) of this article shall be considered a conviction of § 21-902(d)
17 of this article.]

18 (j) (1) In this subsection, "imprisonment" includes confinement in:

19 (i) An inpatient rehabilitation or treatment center; or

20 (ii) Home detention that includes electronic monitoring for the
21 purpose of participating in an alcohol treatment program that is:

22 1. Certified by the Department of Health and Mental
23 Hygiene;

24 2. Certified by an agency in an adjacent state that has
25 powers and duties similar to the Department of Health and Mental Hygiene; or

26 3. Approved by the court.

27 (2) (I) A person who is convicted of a violation of § 21-902(a) of this
28 article within 5 years after a prior conviction under that subsection is subject to a
29 mandatory minimum penalty of imprisonment for not less than 5 days.

30 [(3)] (II) A person who is convicted of a third or subsequent offense under
31 § 21-902(a) of this article within 5 years is subject to a mandatory minimum penalty
32 of imprisonment for not less than 10 days.

33 (3) (I) A PERSON WHO IS CONVICTED OF A VIOLATION OF § 21-902(D)
34 OF THIS ARTICLE WITHIN 5 YEARS AFTER A PRIOR CONVICTION UNDER THAT
35 SUBSECTION IS SUBJECT TO A MANDATORY MINIMUM PENALTY OF IMPRISONMENT
36 FOR NOT LESS THAN 5 DAYS.

1 (II) A PERSON WHO IS CONVICTED OF A THIRD OR SUBSEQUENT
2 OFFENSE UNDER § 21-902(D) OF THIS ARTICLE WITHIN 5 YEARS IS SUBJECT TO A
3 MANDATORY MINIMUM PENALTY OF IMPRISONMENT FOR NOT LESS THAN 10 DAYS.

4 (4) A person who is convicted of an offense under § 21-902(a) of this
5 article within 5 years of a prior conviction of any offense under that subsection shall
6 be required by the court to:

7 (i) Undergo a comprehensive alcohol abuse assessment; and

8 (ii) If recommended at the conclusion of the assessment, participate
9 in an alcohol program as ordered by the court that is:

10 1. Certified by the Department of Health and Mental
11 Hygiene;

12 2. Certified by an agency in an adjacent state that has
13 powers and duties similar to the Department of Health and Mental Hygiene; or

14 3. Approved by the court.

15 (5) A PERSON WHO IS CONVICTED OF AN OFFENSE UNDER § 21-902(D) OF
16 THIS ARTICLE WITHIN 5 YEARS OF A PRIOR CONVICTION OF ANY OFFENSE UNDER
17 THAT SUBSECTION SHALL BE REQUIRED BY THE COURT TO:

18 (I) UNDERGO A COMPREHENSIVE DRUG ABUSE ASSESSMENT; AND

19 (II) IF RECOMMENDED AT THE CONCLUSION OF THE ASSESSMENT,
20 PARTICIPATE IN A DRUG PROGRAM AS ORDERED BY THE COURT THAT IS:

21 1. CERTIFIED BY THE DEPARTMENT OF HEALTH AND
22 MENTAL HYGIENE;

23 2. CERTIFIED BY AN AGENCY IN AN ADJACENT STATE THAT
24 HAS POWERS AND DUTIES SIMILAR TO THE DEPARTMENT OF HEALTH AND MENTAL
25 HYGIENE; OR

26 3. APPROVED BY THE COURT.

27 [(5)] (6) The penalties provided by this subsection are mandatory and
28 are not subject to suspension or probation.

29 (k) (1) Except as provided in subsection (q) of this section, any person who is
30 convicted of a violation of any of the provisions of § 21-902(a) of this article ("Driving
31 while under the influence of alcohol or under the influence of alcohol per se") OR §
32 21-902(D) OF THIS ARTICLE ("DRIVING WHILE IMPAIRED BY CONTROLLED
33 DANGEROUS SUBSTANCE"):

34 (i) For a first offense, shall be subject to a fine of not more than
35 \$1,000, or imprisonment for not more than 1 year, or both;

1 (ii) For a second offense, shall be subject to a fine of not more than
2 \$2,000, or imprisonment for not more than 2 years, or both; and

3 (iii) For a third or subsequent offense, shall be subject to a fine of
4 not more than \$3,000, or imprisonment for not more than 3 years, or both.

5 (2) For the purpose of second or subsequent offender penalties for
6 violation of § 21-902(a) of this article provided under this subsection, a prior
7 conviction of § 21-902(b), (c), or (d) of this article, within 5 years of the conviction for
8 a violation of § 21-902(a) of this article, shall be considered a conviction of § 21-902(a)
9 of this article.

10 (3) FOR THE PURPOSE OF SECOND OR SUBSEQUENT OFFENDER
11 PENALTIES FOR VIOLATION OF § 21-902(D) OF THIS ARTICLE PROVIDED UNDER THIS
12 SUBSECTION, A PRIOR CONVICTION OF § 21-902(A), (B), OR (C) OF THIS ARTICLE,
13 WITHIN 5 YEARS OF THE CONVICTION FOR A VIOLATION OF § 21-902(D) OF THIS
14 ARTICLE, SHALL BE CONSIDERED A CONVICTION OF § 21-902(D) OF THIS ARTICLE.

15 (q) (1) Any person who is convicted of a violation of § 21-902(a) OR (D) of this
16 article and who, at the time of the offense, was transporting a minor is subject to:

17 (i) For a first offense, a fine of not more than \$2,000 or
18 imprisonment for not more than 2 years or both;

19 (ii) For a second offense, a fine of not more than \$3,000 or
20 imprisonment for not more than 3 years or both; and

21 (iii) For a third or subsequent offense, a fine of not more than \$4,000
22 or imprisonment for not more than 4 years or both.

23 (2) Any person who is convicted of a violation of § 21-902(b)[, §
24 21-902(c), or § 21-902(d)] OR (C) of this article and who, at the time of the offense,
25 was transporting a minor is subject to:

26 (i) For a first offense, a fine of not more than \$1,000 or
27 imprisonment for not more than 6 months or both; and

28 (ii) For a second or subsequent offense, a fine of not more than
29 \$2,000 or imprisonment for not more than 1 year or both.

30 (3) For the purpose of determining second or subsequent offender
31 penalties provided under this subsection, a prior conviction of any provision of §
32 21-902 of this article that subjected a person to the penalties under this subsection
33 shall be considered a prior conviction.

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
35 October 1, 2004.

